

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE APRIL 29, 2010

AMENDED IN SENATE APRIL 20, 2010

SENATE BILL

No. 1035

Introduced by Senator Hancock

February 12, 2010

An act to amend, repeal, and add Section 12811.1 of the Public Utilities Code, relating to utility charges.

LEGISLATIVE COUNSEL'S DIGEST

SB 1035, as amended, Hancock. Municipal utility district: utility charges: delinquencies.

The existing Municipal Utility District Act authorizes the formation of a municipal utility district. The act authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter. The act authorizes a municipal utility district, by resolution or ordinance, to require the owner of record of privately owned real property within the district to pay the fees, tolls, rates, rentals, or other charges for certain utility services rendered to a lessee, tenant, or subtenant, and provides that those charges that have become delinquent, together with interest and penalties, are a lien on the property when a certificate is filed by the district in the office of the county recorder and that the lien has the force, effect, and priority of a judgment lien. The act exempts water and sewer services to residential property and electrical services from this provision.

This bill, in addition to the above-described methods for collecting delinquent charges, would establish procedures, until January 1, 2016, for a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, through the tax roll, in the same manner as property taxes. The bill, until January 1, 2016, would authorize a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, by recording in the office of the county recorder of the county in which the affected parcel is located, a certificate declaring the amount of the delinquent charges, together with interest and penalties thereon, which would then constitute a lien against the affected real property of the delinquent property owner in that county and have the force, effect, and priority of a judgment lien. The bill, until January 1, 2016, would delete the above-described exemption for water and sewer services to residential property, thereby exempting only electrical services from these collection provisions. The bill would require any district that places a lien on a property for water or sewer service on or before December 31, 2014, to submit a report containing certain information to the Assembly and Senate Committees on Judiciary *and to the Assembly and Senate Committees on Local Government* on or before January 1, 2015. By requiring county auditors and recorders to undertake certain actions in response to the exercise of collection measures by a municipal utility district, the bill would impose a state-mandated local program. The bill would require a municipal utility district that exercises these collection measures to reimburse the county for the reasonable expenses incurred by the county.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12811.1 of the Public Utilities Code is
2 amended to read:

1 12811.1. (a) Except when prohibited by Section 12822.6, a
2 district may, by resolution or ordinance, require the owner of record
3 of real property within the district to pay the fees, tolls, rates,
4 rentals, or other charges for services rendered to a lessee, tenant,
5 or subtenant, and those fees, tolls, rates, rentals, and other charges
6 that have become delinquent, together with interest and penalties
7 thereon, are a lien on the property when a certificate is filed in the
8 office of the county recorder pursuant to subdivision (b) and the
9 lien has the force, effect, and priority of a judgment lien. No lien
10 may be created under this section on any publicly owned property.

11 (b) A lien under this section attaches when the district files for
12 recordation in the office of the county recorder a certificate
13 specifying the amount of the delinquent fees, tolls, rates, rentals,
14 or other charges together with interest and penalties thereon; the
15 name of the owner of record of the property to which services were
16 rendered by the district; and the legal description of the property.
17 Within 30 days of receipt of payment of all amounts due, including
18 recordation fees paid by the district, the district shall file for
19 recordation a release of the lien.

20 (c) A district may, by resolution or ordinance, provide that any
21 delinquent fees, tolls, rates, rentals, or other charges, together with
22 interest and penalties thereon, including any delinquent fees, tolls,
23 rates, rentals, or other charges for services rendered to a lessee,
24 tenant, or subtenant, may be collected on the tax roll in the same
25 manner as property taxes. Before any entity may collect any
26 delinquent fees, tolls, rates, rentals, or other charges, together with
27 interest and penalties thereon, including any delinquent fees, tolls,
28 rates, rentals, or other charges for services rendered to a lessee,
29 tenant, or subtenant on the tax roll, the district shall prepare a
30 report, provide notice, conduct a public hearing, and file a
31 certificate in the office of the county recorder, as follows:

32 (1) The general manager shall prepare and file with the district
33 board of directors a report that describes each affected parcel of
34 real property and the amount of the delinquent fees, tolls, rates,
35 rentals, or other charges, together with interest and penalties
36 thereon, including any delinquent fees, tolls, rates, rentals, or other
37 charges for services rendered to a lessee, tenant, or subtenant for
38 each affected parcel for the year. The general manager shall give
39 notice of the filing of the report and of the time, date, and place
40 for a public hearing by publishing the notice pursuant to Section

1 6066 of the Government Code in a newspaper of general
2 circulation, and by mailing the notice to the owner of each affected
3 parcel at least 14 days prior to the date of the hearing.

4 (2) At the public hearing, the board of directors shall hear and
5 consider any objections or protests to the report. At the conclusion
6 of the public hearing, the board of directors may adopt or revise
7 the delinquent fees, tolls, rates, rentals, or other charges, together
8 with interest and penalties thereon, including any delinquent fees,
9 tolls, rates, rentals, or other charges for services rendered to a
10 lessee, tenant, or subtenant. The board of directors shall make its
11 determination on each affected parcel and its determinations shall
12 be final.

13 (3) On or before August 10 of each year following these
14 determinations, the general manager shall file with the county
15 auditor a copy of the final report adopted by the board of directors.
16 The county auditor shall enter the amount of the delinquent fees,
17 tolls, rates, rentals, or other charges, together with interest and
18 penalties thereon, including any delinquent fees, tolls, rates, rentals,
19 or other charges for services rendered to a lessee, tenant, or
20 subtenant, against each of the affected parcels of real property as
21 they appear on the current assessment roll. The county tax collector
22 shall include the amount of the delinquent fees, tolls, rates, rentals,
23 or charges, together with interest and penalties thereon, including
24 any delinquent fees, tolls, rates, rentals, or other charges for
25 services rendered to a lessee, tenant, or subtenant, on the tax bills
26 for each affected parcel of real property and collect the delinquent
27 fees, tolls, rates, rentals, or charges, together with interest and
28 penalties thereon, including any delinquent fees, tolls, rates, rentals,
29 or other charges for services rendered to a lessee, tenant, or
30 subtenant, in the same manner as property taxes.

31 (4) The district may recover any delinquent fees, tolls, rates,
32 rentals, or other charges, together with interest and penalties
33 thereon, including any delinquent fees, tolls, rates, rentals, or other
34 charges for services rendered to a lessee, tenant, or subtenant, by
35 recording in the office of the county recorder of the county in
36 which the affected parcel is located, a certificate declaring the
37 amount of the delinquent fees, tolls, rates, rentals, or charges,
38 together with interest and penalties thereon, including any
39 delinquent fees, tolls, rates, rentals, or other charges for services
40 rendered to a lessee, tenant, or subtenant, due, and the name and

1 last known address of the person liable therefore. From the time
2 of recordation of the certificate, the amount of the delinquent fees,
3 tolls, rates, rentals, or charges, together with interest and penalties
4 thereon, including any delinquent fees, tolls, rates, rentals, or other
5 charges for services rendered to a lessee, tenant, or subtenant,
6 constitutes a lien against the affected real property of the delinquent
7 property owner in that county. This lien shall have the force, effect,
8 and priority of a judgment lien. Within 30 days of receipt of
9 payment of all amounts due, including recordation fees paid by
10 the district, the district shall file for recordation a release of the
11 lien.

12 (5) The district shall not recover on the tax roll any delinquent
13 fees, tolls, rates, rentals, or other charges for services for
14 commercial use to a commercial tenant under an account
15 established by the commercial tenant, from any subsequent tenant
16 or the property owner, due to nonpayment of charges by a previous
17 commercial tenant. For this purpose, the term “subsequent
18 commercial tenant” shall not include an entity or adult person that
19 was located at the same address during the period the charges or
20 penalties accrued. This paragraph does not apply to master-metered
21 accounts.

22 (d) Notwithstanding Sections 6103 and 27383 of the
23 Government Code, in filing any instrument, paper, or notice
24 pursuant to this section, the district shall pay all applicable
25 recording fees prescribed by law.

26 (e) A district shall reimburse the county for the reasonable
27 expenses incurred by the county pursuant to this section.

28 (f) Any district that places a lien on a property for water or sewer
29 service pursuant to this section on or before December 31, 2014,
30 shall submit to the Assembly and Senate Committees on Judiciary
31 *and to the Assembly and Senate Committees on Local Government*,
32 on or before January 1, 2015, a report containing the following
33 information:

34 (1) The total number of liens created under this section for water
35 or sewer service and the total dollar amount of those liens.

36 (2) The overall effectiveness of the liens and any problems
37 associated with the use of those liens.

38 (g) The remedies in this section are cumulative and in addition
39 to any other remedy provided by law. The district may pursue
40 remedies alternatively or consecutively.

1 (h) This section does not apply to delinquent fees or charges
2 for the furnishing of electrical service.

3 (i) This section shall remain in effect only until January 1, 2016,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2016, deletes or extends that date.

6 SEC. 2. Section 12811.1 is added to the Public Utilities Code,
7 to read:

8 12811.1. (a) A district, by resolution or ordinance, may require
9 the owner of record of real property within the district to pay the
10 fees, tolls, rates, rentals, or other charges for services rendered to
11 a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals,
12 and other charges that have become delinquent, together with
13 interest and penalties thereon, are a lien on the property when a
14 certificate is filed in the office of the county recorder pursuant to
15 subdivision (b) and the lien has the force, effect, and priority of a
16 judgment lien. A lien shall not be created under this section on
17 any publicly owned property.

18 (b) A lien under this section attaches when the district files for
19 recordation in the office of the county recorder a certificate
20 specifying the amount of the delinquent fees, tolls, rates, rentals,
21 or other charges together with interest and penalties thereon; the
22 name of the owner of record of the property to which services were
23 rendered by the district; and the legal description of the property.
24 Within 30 days of receipt of payment of all amounts due, including
25 recordation fees paid by the district, the district shall file for
26 recordation a release of the lien.

27 (c) Notwithstanding Sections 6103 and 27383 of the Government
28 Code, in filing any instrument, paper, or notice pursuant to this
29 section, the district shall pay all applicable recording fees
30 prescribed by law.

31 (d) The remedies in this section are in addition to any other
32 remedy provided by law.

33 (e) This section does not apply to delinquent fees or charges for
34 the furnishing of water or sewer service to residential property or
35 electrical service.

36 (f) This section shall become operative on January 1, 2016.

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 a local agency or school district has the authority to levy service
40 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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